

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Infinity Broadcasting Corporation of Florida)	File No. EB-04-TP-478
)	
Licensee of Station WQYK-FM)	NAL/Acct. No. 200532700005
Tampa, Florida)	
Facility ID # 28619)	FRN: 0004036711

FORFEITURE ORDER

Adopted: February 2, 2007
2007

Released: February 6,

By the Regional Director, South Central Region, Enforcement Bureau:

I. INTRODUCTION

1. In this *Forfeiture Order* (“*Order*”), we issue a monetary forfeiture in the amount of ten thousand dollars (\$10,000) to Infinity Broadcasting Corporation of Florida (“Infinity”), licensee of station WQYK-FM, 99.5 MHz, serving St. Petersburg, Florida, for willful and repeated violation of Section 1.1310 of the Commission’s Rules (“Rules”)¹ by failing to comply with radio frequency radiation (“RFR”) maximum permissible exposure (“MPE”) limits applicable to facilities, operations, or transmitters. On January 5, 2005, the Tampa Office issued a *Notice of Apparent Liability for Forfeiture* to Infinity in the amount of twenty thousand dollars (\$20,000) for the apparent willful and repeated violation of Section 1.1310 of the Rules.² In this *Order*, we consider Infinity’s arguments concerning the appropriate RFR MPE limit to be applied at the site in question; that its violation was not willful; and that there no basis for an upward adjustment of the forfeiture amount.

II. BACKGROUND

2. The RFR MPE limits, which are set forth in Section 1.1310 of the Rules, include limits for “occupational/controlled” exposure and limits for “general population/uncontrolled” exposure.³ The occupational exposure limits apply in situations in which persons are exposed as a consequence of their employment provided those persons are fully aware of the potential for exposure and can exercise control

¹ 47 C.F.R. § 1.1310.

² *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200532700005 (Enf. Bur., Tampa Office, January 5, 2005) (“*NAL*”). A Notice of Apparent Liability for Forfeiture in the amount of \$25,000 for violation of the RFR Rules was issued to Entravision Holdings, LLC, licensee of station WVEA-LP, on January 5, 2005. See *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200532700004 (Enf. Bur., Tampa Office, January 5, 2005).

³ 47 C.F.R. § 1.1310.

over their exposure.⁴ The limits of occupational exposure also apply in situations where an individual is transient through a location where the occupational limits apply, provided that he or she is made aware of the potential for exposure.⁵ The more stringent general population or public exposure limits apply in situations in which the general public may be exposed, or in which persons that are exposed as a consequence of their employment may not be fully aware of the potential for exposure or cannot exercise control over their exposure.⁶ Licensees can demonstrate compliance by restricting public access to areas where RFR exceeds the public MPE limits.⁷

3. Infinity, licensee of station WQYK-FM, certified compliance with the RFR MPE limits in its renewal application for a licensed facility granted January 29, 2004.⁸ The application contained an RFR exhibit for their location at the Park Tower Office Building (“Park Tower”) at 400 North Tampa Street, Tampa, Florida. The exhibit stated that areas on the penthouse rooftop where the station is located exceed the Commission’s MPE limits for controlled environments and that the areas are clearly identified and marked. The exhibit also stated that a plan is in effect and understood by all licensees at the antenna site to protect workers accessing the penthouse roof. Finally, the exhibit stated that access to the transmitting site is restricted and properly marked with warning signs and thereby classified as a controlled environment.

2. On May 25, 2004, Tampa Office agents, in response to a complaint, inspected the Park Tower rooftop. Access to the main rooftop was restricted to individuals with special keycards. Signs on the rooftop access doors stated that areas on the rooftop exceed the Commission’s public RFR limits. However, the signs did not indicate which areas on the rooftop exceeded the public or general population RFR limits. The agents continued to the penthouse rooftop, which was restricted by an additional lock controlled by the front desk and accessed without passing by the warning signs on the main rooftop access doors. There were no RFR warning signs found on the penthouse rooftop, penthouse rooftop access door to the stairwell, inside the stairwell, or on the hatch itself. While surveying the penthouse rooftop, a Tampa agent, using a calibrated RFR meter, found that approximately 75% of the penthouse rooftop exceeded the general population/uncontrolled RFR MPE limit. The agent also found an unmarked and un-posted area within an 8-10 foot radius of a tower containing a UHF TV antenna, later identified as belonging to station WVEA-LP, exceeding the occupational/controlled RFR MPE limit which also greatly exceeded the general population/uncontrolled RFR MPE limit. The agent determined that there was a second UHF-TV and two FM radio stations, one of which belonged to station WQYK-FM, all on separate towers located on the penthouse rooftop at the time of inspection. Park Tower’s chief engineer, who accompanied the agents on this inspection, stated he and his personnel were not aware of areas exceeding the general population and occupational limits on the penthouse rooftop pointed out to him by the agent. The building’s chief engineer stated that he and his personnel access this rooftop on a fairly regular basis to inspect it for maintenance and to conduct roofing repairs. He also stated that neither he nor any of his maintenance crew or subcontractors had received any training with respect to RFR hazards.

3. On June 18, 2004, a Tampa Office agent returned to the penthouse rooftop of Park Tower,

⁴ 47 C.F.R. § 1.1310, Note 1 to Table 1.

⁵ *Id.*

⁶ 47 C.F.R. § 1.1310, Note 2 to Table 1.

⁷ See, for example, Office of Engineering and Technology, *Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields* (1997) (“OET Bulletin 65”).

⁸ File No. BRH-20031001AGG, granted January 29, 2004 (“WQYK-FM 2003 Renewal Application”).

gathered more information, and made additional measurements. The agent found power density levels in excess of the RFR MPE general population and occupational limits, similar to those detected on May 25, 2004. There were no RFR warning signs posted in the stairwell that accessed the penthouse rooftop or on the penthouse rooftop itself.

4. On July 1, 2004, agents again took measurements on the penthouse rooftop of Park Tower. When all four stations were on the air, the RFR fields at the un-posted, unmarked area near the WVEA-LP antenna exceeded the occupational/controlled RFR MPE limit and also greatly exceeded the general population/uncontrolled RFR MPE limit, consistent with the agents' May 25, 2004, measurements.

5. On July 15, 2004, an agent spoke with the engineer for station WQYK-FM to set up a meeting to conduct an RFR inspection at the transmitter site. The station engineer stated he knew of areas on the penthouse rooftop that exceeded the occupational limits and that station WQYK-FM was contributing more than 5% to those fields.⁹

6. On July 16, 2004, Tampa agents conducted another inspection of the penthouse rooftop. Entravision Holdings, LLC ("Entravision"), licensee of WVEA-LP, had placed a small, framed caution sign in the stairwell to the penthouse roof hatch that listed contact information for the WVEA-LP station engineer. Entravision had also marked with yellow paint the penthouse rooftop area exceeding the occupational/controlled RFR MPE limit, but had not placed warning signs on the penthouse rooftop itself. The Tampa agents conducted measurements similar to those conducted on July 1 with the four licensees located at the site. With all four stations on the air, the area near the WVEA-LP antenna exceeded the occupational/controlled RFR MPE limit and also greatly exceeded the general population/uncontrolled RFR MPE limit, consistent with the agents' May 25, 2004, and July 1, 2004, measurements. After station WVEA-LP was taken off the air, the agents determined that WVEA-LP was responsible for the majority contribution of both the general public/uncontrolled RFR MPE limit and the occupational/controlled RFR MPE limit. When WQYK-FM was taken off the air and measurements were made, it was determined that WQYK was responsible for more than 5% of the both occupational/controlled RFR MPE limit and the general population/uncontrolled RFR MPE limit. Before leaving, the agents told the station WQYK-FM engineer of his station's contribution. Although station WVEA-LP had marked the areas on the penthouse rooftop that exceeded the occupational limit with yellow paint and placed a framed warning sign in the stairwell, the engineer for station WQYK-FM was warned that the area was still not properly marked. The agents also suggested that the station WQYK-FM engineer speak with the building's chief engineer to discuss other steps to give the workers knowledge and control over their exposure. The agents again explained to the station WQYK-FM engineer the RFR requirements.

7. On July 20, 2004, an agent contacted the station WQYK-FM engineer to discuss the July 16th inspection. The station engineer had not posted any warning signs on the penthouse rooftop and had not contacted the building's engineer. The agent reminded the station engineer of station WQYK's responsibility, as a contributor of more than 5% of the RFR in excess of the allowable limit, to comply with the Commission's RFR requirements.

8. On August 17, 2004, an agent re-inspected the penthouse rooftop of Park Tower. There was no sign posted on the penthouse rooftop as requested on July 16 and 20. The building's chief engineer stated the station WQYK-FM engineer spoke to him briefly about the high fields on the penthouse roof, but had not discussed any policy to limit rooftop access only to those with RFR training.

9. On September 30, 2004, agents re-inspected the penthouse rooftop. The agents found

⁹ Infinity disputes that station WQYK-FM's engineer made these statements to the Tampa agent.

power density levels in excess of the RFR MPE general population and occupational limits, similar to those previously detected. Station WVEA-LP had placed a sign on its tower that cautioned workers that the yellow striped area exceeds safe occupational levels. The sign, however, did not list any station contact information to enable workers to inquire as to the level of the RFR on the penthouse rooftop.¹⁰

10. On October 26, 2004, the building's chief engineer stated that Infinity had not yet contacted him to restrict access to the penthouse rooftop only to workers who had received RFR training. On November 5, 2004, the building's chief engineer contacted the Tampa Office and stated that station WVEA-LP told him that the transmitter power had been reduced and the penthouse rooftop was now well below the occupational limit. Agents made measurements the same day and confirmed there were no areas on the penthouse rooftop that exceeded the occupational/controlled RFR MPE limit. There were areas, however, that were still well above the general population/uncontrolled limit.

11. On January 5, 2005, the Tampa Office issued a *NAL* to Infinity in the amount of \$20,000 for the apparent willful and repeated violation of Section 1.1310 of the Rules. Infinity filed a response to the *NAL* on March 16, 2005,¹¹ requesting that the forfeiture be rescinded. In its response, Infinity does not dispute the RFR measurements discussed in the *NAL*, nor does Infinity dispute that it was responsible for a 5% contribution to both the occupational/controlled and general population/uncontrolled RFR MPE limits on the Park Tower penthouse rooftop. Instead, Infinity argues that the occupational/controlled RFR MPE limit should be applied to the penthouse roof; that the alleged violation was not willful, as Infinity had no prior knowledge of the RFR violations at the Park Tower site; and that the Tampa Office incorrectly assessed an upward adjustment of the forfeiture amount against Infinity.

III. DISCUSSION

12. The proposed forfeiture amount in this case was assessed in accordance with Section 503(b) of the Act,¹² Section 1.80 of the Rules,¹³ and *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999) ("*Forfeiture Policy Statement*"). In examining Infinity's response, Section 503(b) of the Act requires that the Commission take into account the nature, circumstances, extent and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.¹⁴

13. Section 1.1310 of the Rules requires licensees to comply with occupational and general population MPE limits for electric and magnetic field strength and power density for transmitters operating at frequencies from 300 kHz to 100 GHz.¹⁵ The MPE limits specified in Table 1 of Section 1.1310 are

¹⁰ Such information allows workers who are fully aware of the potential for their exposure to make informed decisions and exercise control over their exposures. See 47 C.F.R. § 1.1310, Note 1 to Table 1. See also *OET Bulletin 65* at pp. 55 – 59.

¹¹ See Letter from Meredith S. Senter, Jr., counsel for Infinity, to Federal Communications Commission (dated March 16, 2005). Infinity requested an extension to submit its response to the *NAL*, which was granted by the Bureau.

¹² 47 U.S.C. § 503(b).

¹³ 47 C.F.R. § 1.80.

¹⁴ 47 U.S.C. § 503(b)(2)(D).

¹⁵ See 47 C.F.R. § 1.1310, Table 1.

used to evaluate the environmental impact of human exposure to RFR and apply to "...all facilities, operations and transmitters regulated by the Commission."¹⁶ Section 1.1307(b)(3) of the Rules states that "when the guidelines specified in § 1.1310 are exceeded in an accessible area due to the emissions from multiple fixed transmitters, actions necessary to bring the area into compliance are the shared responsibility of all licensees whose transmitters produce, at the area in question, power density levels that exceed 5% of the power density exposure limit applicable to their particular transmitter..."¹⁷ Licensees bear the responsibility to restrict access to areas that exceed the RFR MPE limits or to modify the facility and operation so as to bring the station's operation into compliance with the RFR exposure limits prior to worker or public access to the impacted area.¹⁸

14. Infinity argues that the Park Tower penthouse rooftop is a "controlled-access environment" and, therefore, the applicable RFR MPE limits to be applied are the occupational/controlled MPE limits. Infinity also states that the Park Tower engineer was aware of the need to maintain the penthouse rooftop as a controlled environment, that steps had to be taken to limit access and reduce power if necessary, and that Infinity had complained to the Park Tower engineer that modifications on the penthouse roof needed to be better coordinated. Additionally, Infinity argues that a warning sign was posted on the door at the top of the staircase which led to the penthouse rooftop. According to Infinity, the combination of this controlled access, along with the knowledge of the Park Tower engineer, and the warning sign at the top of the stairs to the penthouse rooftop requires that we apply only the occupational/controlled MPE RFR limits to the penthouse roof. We disagree.

15. The appropriate RFR MPE limit to be applied in an area depends on who is being exposed to the RFR.¹⁹ In situations where persons are exposed as a consequence of their employment, provided those persons are fully aware of the potential for exposure and can exercise control over their exposure, the occupational/controlled MPE limits apply.²⁰ In situations where the general public may be exposed, or where persons that are exposed as a consequence of their employment may not be fully aware of the potential for exposure or cannot exercise control over their exposure, the general population/uncontrolled MPE limits apply.²¹ The penthouse roof may not have been accessible by the general public, but it was accessible by workers and employees. Because persons who are exposed as a result of their employment can potentially come under either RFR MPE limit, we must now determine if the workers and employees with access to the penthouse roof were fully aware of their potential for exposure and could exercise control over it.

16. The yellow sign posted on the door at the top of the staircase leading to the penthouse roof stated "CAUTION - Beyond this point: Radio frequency fields at this site may exceed FCC rules for human exposure. For your safety, obey all posted signs and site guidelines for working in radio frequency environments." However, according to the building's chief engineer, the door leading to the penthouse

¹⁶ See 47 C.F.R. §§ 1.1307(b), 1.1307(b)(1), 1.1310.

¹⁷ 47 C.F.R. § 1.1307(b)(3).

¹⁸ 47 C.F.R. §§ 1.1307(b)(1), 1.1307(b)(5), 1.1310. Additional guidance is provided in *OET Bulletin 65*.

¹⁹ See, e.g., *OET Bulletin 65* at 1 – 10.

²⁰ The limits of occupational exposure also apply in situations where an individual is transient through a location where the occupational limits apply, provided that he or she is made aware of the potential for exposure. 47 C.F.R. § 1.1310, Note 1 to Table 1.

²¹ 47 C.F.R. § 1.1310, Note 2 to Table 1.

rooftop upon which this sign was posted was typically propped open. With the door propped open, the warning sign faces the wall and is not visible. On each of the six occasions Tampa agents inspected the site, the door was propped open and the agents did not see any sign. Additionally, there is no evidence that there were any posted signs on the penthouse roof for any worker or employee to obey, even if they had seen the warning sign that instructed them to look for such signs.²² Consequently, we cannot conclude that the existence of this one sign, which was routinely hidden from those accessing the penthouse roof, on its own, made the workers and employees accessing the penthouse roof fully aware of their potential for exposure and allowed them to exercise control over that exposure.²³

17. Infinity also argues that the Commission does not require warning signs, and that Infinity had warned the Park Tower building management, and building engineer, concerning a previous RFR issue on the rooftop in 2003.²⁴ Infinity also asserts that an Infinity engineer met with counsel for Entravision in February 2004 about the WVEA-LP antenna modification, and the RFR levels that could be created by that modification. Additionally, Infinity states that the Commission may not assess a forfeiture against Infinity for failing to train the Park Tower employees and that because the definition of the term “fully aware” is the subject of a current rulemaking, there is no policy it is obligated to follow concerning educating building employees. Infinity misinterprets its obligations as a Commission licensee. As indicated above, Section 1.1307(b)(3) of the Rules states that “when the guidelines specified in § 1.1310 are exceeded in an accessible area due to the emissions from multiple fixed transmitters, actions necessary to bring the area into compliance are the shared responsibility of all licensees whose transmitters produce, at the area in question, power density levels that exceed 5% of the power density exposure limit applicable to their particular transmitter...”²⁵ Infinity operates WQYK-FM’s transmitter on a multi-user site, and is obligated pursuant to Section 1.1307(b)(3) of the Rules to bring the area into compliance with the Commission’s RFR rules. The Commission expects “[o]wners of transmitter sites . . . to allow applicants and licensees to take reasonable steps to comply with [these] requirements . . .”²⁶ However, the Commission has concluded that “responsibilities pertaining to RF electromagnetic fields properly belong[] with our licensees and applicants, rather than with site owners.”²⁷ In other words, Infinity, along with one other licensee at the Park Tower site,²⁸ was obligated to bring the areas of the rooftops into compliance with the Commission’s Rules.

18. For the occupational/controlled MPE limits to be considered the applicable MPE limits on the penthouse rooftop, Infinity must ensure that the workers and employees accessing the penthouse rooftop were fully aware of their potential for exposure and allowed them to exercise control over that

²² Additionally, Infinity has produced no “site guidelines” that give workers or employees enough information to be aware of their potential for exposure and allow them to exercise control over it.

²³ See *Americom Las Vegas Limited Partnership* Memorandum Opinion and Order, FCC 06-174, 2006 WL 3472472 (rel. December 1, 2006) (Commission found that the burden is on the licensee to ensure that RFR warning signs are visible to the affected population).

²⁴ See *infra* n. 32.

²⁵ 47 C.F.R. § 1.1307(b)(3).

²⁶ 47 C.F.R. § 1.1307(b)(3).

²⁷ *RF Second Memorandum Opinion and Order*, 12 FCC Rcd at 13522 (1997).

²⁸ Entravision, licensee of WVEA-LP, is the other licensee at the Park Tower site whose transmitter produces power density levels that exceed 5% of the power density exposure limit applicable its transmitter. See *supra* n.1.

exposure. Other than the warning sign posted on the door at the top of the staircase leading to the penthouse roof, which was hidden from view on the six occasions Tampa agents visited the site, Infinity has failed to produce any evidence that it or the other licensee operating on the penthouse rooftop successfully ensured such awareness and control on the part of the affected workers and employees. Infinity states that it warned the Park Tower building management concerning a previous RFR issue on the rooftop in 2003 and complained that modifications to facilities by rooftop tenants needed to be better coordinated. Infinity also states that it attempted to modify its lease to include language concerning RFR compliance. There is no evidence that after an Infinity engineer met with counsel for Entravision in February 2004 about the WVEA-LP antenna modification, and the RFR levels that could be created by that modification, that Infinity took any action concerning RFR levels on the penthouse rooftop or to ensure that workers and employees accessing the penthouse rooftop were fully aware of their potential for exposure and allowed them to exercise control over that exposure. While Infinity states in its response that it “proactively monitored compliance with the RFR rules at the [Park Tower] site,” it apparently made no effort concerning compliance at the site from February 5, 2004, until July 15, 2004, when it was first contacted by a Tampa agent to arrange the July 16, 2004, inspection. As a licensee contributing more than 5% of its transmitter’s RFR MPE limit, Infinity, and not the Park Tower building management, is obligated under the Commission’s Rules to ensure such awareness and control for the affected workers and employees. Infinity failed to do so, therefore, the general population/uncontrolled MPE limits must be applied.

19. Infinity also argues that it had no knowledge that the occupational/controlled MPE limits had been exceeded on the penthouse roof and that it was actually a victim of Entravision’s violation. Additionally, Infinity denies that its engineer had any knowledge of the levels of RFR being created by the WVEA-LP antenna modification until the problem had been corrected. Infinity argues that, pursuant to *OET Bulletin 65*, Entravision was responsible for ensuring compliance at the penthouse rooftop, because station WVEA-LP submitted a modification application and that modification caused areas on the penthouse rooftop to exceed the occupational limit.²⁹ Infinity further argues that it fulfilled its obligations when it contacted station WVEA-LP’s consulting engineer and attorney to confirm WVEA-LP’s certification of compliance. Consequently, Infinity argues, it did not willfully violate Section 1.1310 of the Rules. We disagree.

20. The passages from *OET Bulletin 65* cited by Infinity correspond to the requirement set forth in Section 1.1307(b)(3)(i) of the Rules, which states that “[a]pplicants for proposed modifications that would cause non-compliance with the limits specified in § 1.1310 at an accessible area previously in compliance must submit an EA [Environmental Assessment] if emissions from the applicant’s transmitter would result, at the area in question, in a power density that exceeds 5% of the power density exposure limit applicable to that transmitter or facility...”³⁰ This requirement, however, does not shield licensees at multi-emitter environments, once the modification has been granted. After that time, when the Section 1.1310 MPE limits “are exceeded in an accessible area due to the emissions from multiple fixed transmitters, actions necessary to bring the area into compliance are the shared responsibility of all licensees whose transmitters produce power density levels that exceed 5% of the power density exposure limit applicable to their particular transmitter...”³¹ Infinity was aware of the modification being performed

²⁹ *OET Bulletin 65* states that in the case of an application for a proposed modification to a transmitter that would cause non-compliance at an accessible area previously in compliance, “it is the responsibility of the applicant to either ensure compliance or submit an EA...” *OET Bulletin 65* at 33.

³⁰ 47 C.F.R. § 1.1307(b)(3)(i).

³¹ 47 C.F.R. § 1.1307(b)(3).

at the WVEA-LP antenna and met with Entravision to inquire about its compliance. Infinity failed, however, to ensure that the site on the penthouse roof was in compliance, as required by Section 1.1307(b)(3) of the Rules.³² We also note that in its most recent application for renewal of the WQYK-FM broadcast license, Infinity certified that WQYK-FM “complies with the maximum permitted radiofrequency electromagnetic exposure limits for controlled and uncontrolled environments.”³³ Consequently, we find that Infinity was aware of its responsibilities pursuant to the Commission’s RFR Rules, and failed to comply with them. Therefore, we find that Infinity willfully violated violate Section 1.1310 of the Rules.

21. Infinity also states that the Tampa Office incorrectly assessed an upward adjustment of the base forfeiture of \$10,000 because, among other factors, it relied on the issuance of a forfeiture order which assessed a \$10,000 forfeiture against an Infinity affiliate, licensee of KRTH-FM, Los Angeles, California, for violation of Section 1.1310 of the Rules.³⁴ Infinity argues that the use of the recent forfeiture order violates Section 504(c) of the Act because Infinity has not paid that forfeiture and the case remains the subject of pending litigation.³⁵ We agree. The Commission has found that reliance on the facts underlying prior unpaid notices of apparent liability under similar circumstances is permitted under Section 504(c), however, reliance on the issuance of a notice of apparent liability is prohibited until the forfeiture has been paid or the person is subject to a final court order to pay.³⁶ Consequently, we reduce the forfeiture amount to the base level of \$10,000.

22. We have examined Infinity’s response to the *NAL* pursuant to the statutory factors above, and in conjunction with the *Forfeiture Policy Statement*. As a result of our review, we reduce the forfeiture proposed for this violation to \$10,000.

IV. ORDERING CLAUSES

23. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.311 and 1.80(f)(4) of the Commission’s Rules, Infinity Broadcasting Corporation of Florida **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of ten thousand dollars (\$10,000) for willfully and repeatedly violating Section 1.1310 of the Rules.

24. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within 30 days of the release of this *Order*. If the forfeiture is not paid within the period specified,

³² We note that in a prior incident, in 2003, concerning RFR levels which exceeded the occupational/controlled MPE limits on the Park Tower penthouse roof, Infinity worked with ZGS Television of Tampa, Inc. (“ZGS”), licensee of WMRD-LP, to bring the affected area into compliance. Infinity details the steps it took along with ZGS as part of this undertaking in its response. This further shows that Infinity is aware that its shares responsibility with other licensees to bring the penthouse roof into compliance with the Commission’s Rules.

³³ WQYK-FM 2003 Renewal Application, Section III, Question 6. Infinity also stated that “a plan is in effect and understood by all of the licensee at the antenna site to protect workers on the penthouse roof.” We note that no copy of that plan has been produced in this proceeding.

³⁴ *Radio One Licenses, LLC*, 19 FCC Rcd 23922 (2004) *affirmed*, *Radio One Licenses, LLC*, Memorandum Opinion and Order, FCC 06-173, 2006 WL 3472471 (rel. December 1, 2006).

³⁵ 47 U.S.C. § 504(c).

³⁶ *SBC Communications, Inc.*, 17 FCC Rcd 4043, 4052 – 53 (2002).

the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act.³⁷

Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 358340, Pittsburgh, PA 15251-8340. Payment by overnight mail may be sent to Mellon Bank /LB 358340, 500 Ross Street, Room 1540670, Pittsburgh, PA 15251. Payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 911-6106. Requests for full payment under an installment plan should be sent to: Associate Managing Director, Financial Operations, 445 12th Street, S.W., Room 1A625, Washington, D.C. 20554.³⁸

25. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by First Class and Certified Mail Return Receipt Requested to Infinity Broadcasting Corporation of Florida at its record of address and to its counsel, Steven A. Lerman, Leventhal, Senter & Lerman PLLC, 2000 K Street NW Suite 600, Washington, DC 20006-1809.

FEDERAL COMMUNICATIONS COMMISSION

Dennis P. Carlton
Regional Director
South Central Region
Enforcement Bureau

³⁷ 47 U.S.C. § 504(a).

³⁸ See 47 C.F.R. § 1.1914.